Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Protecting Consumers from	)	CG Docket No. 17-169
Unauthorized Carrier Changes and	)	FCC 17-91
Related Unauthorized Charges	)	

COMMENTS OF CHANGE TO WIN

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I. Introduction

With its Notice of Proposed Rulemaking ("NPR") published on August 14, 2017, the Commission seeks comments on its rulemaking process to prevent consumers from being switched to a different phone provider without their permission or having unauthorized charges added to their bills—activities known respectively as "slamming" and "cramming."

Change to Win submits this comment in support of the Commission's rulemaking on cramming and slamming and agrees with the Commission's assessment that these practices are prevalent problems that are not adequately dealt with through existing law. In its NPR, the Commission stated that it received nearly 8,000 cramming and slamming complaints in 2015 and 2016. Even these large numbers, the Commission notes, understate the problem; many customers who fall victim to cramming and slamming never detect the problem so do not file a complaint. Other victims may characterize a slam or cram as a "billing" complaint, and the Commission received over 50,000 billing complaints in 2015 and 2016.[1]

Change to Win also submits this comment to respectfully request that the Commission's rulemaking address cramming by customers' authorized wireless carriers. The NPR focuses on a particular type of cramming and slamming—in which a wireline carrier contacts potential customers by phone and misrepresents itself, fraudulently changes the customers' carriers, and then adds unauthorized charges to these customers' bills. The NPR, however, neglects to address another form of cramming through which a customer's authorized wireless carrier adds unauthorized ancillary charges to the customer's bill.

In the NPR, the Commission stated that "the vast majority of complaints and enforcement actions appear to target the billing practices of traditional local exchange carriers, not wireless carriers or interconnected VoIP providers."[2] As discussed in detail below, we believe the Commission's assessment of wireless cramming complaints is incomplete because it does not account for Federal Trade Commission consumer complaint data, which show an accelerating upward trend in complaints against the four major wireless companies and a large percentage of complaints pertaining to unauthorized charges.

Pursuant to Freedom of Information ("FOIA") requests, Change to Win obtained and analyzed consumer complaints about the four largest wireless carriers—Verizon, AT&T, T-Mobile, and Sprint—collected by the Federal Trade Commission ("FTC") from 2013 to 2016. The total volume of consumer complaints about all four carriers increased dramatically over the analyzed time period. In addition, over twenty percent of complaints regarding the top four carriers submitted to the Federal Trade Commission pertained to unauthorized charges. Change to Win supplemented this analysis with a review of consumer complaints about the four

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[1] *Protecting Consumers from Unauthorized Carrier Changes and Related Unauthorized Charges,* Notice of Proposed Rulemaking, CG Docket No. 17-169, FC 17-91 (rel. July 14, 2017), ¶ 5, n. 14 ("*July 14, 2017 NPR*").
[2] *Id.* ¶ 18.

wireless carriers pertaining to unauthorized services or charges filed with the Maryland Attorney General's Office, some of which are summarized below.

In addition to the analysis of FTC and Maryland Attorney General's Office complaints, Change to Win polled and interviewed sales and call center workers at T-Mobile, the third-largest wireless carrier. The T-Mobile sales workers report that they face enormous pressure to enroll customers in ancillary services and products that the customers did not request, and the call center workers report frequent consumer complaints about unauthorized charges. Taken together, our research shows that cramming in the wireless industry is a prevalent and growing problem and that stricter regulation of wireless sales is necessary to curb fraudulent practices.

For these reasons, this comment respectfully recommends the following:

(1) The Commission's rulemaking on slamming and cramming should apply to wireless carriers and, in particular, sales at their retail outlets and through their call centers.
(2) The Commission's rulemaking should address cramming even when it is not accompanied by slamming. As our research demonstrates, cramming by authorized wireless carriers is an increasingly prevalent problem.
(3) The Commission should require that authorized carriers receive a customer's express informed consent before adding any charges to a customer's account. This express informed consent should be documented in writing or by recording.

This comment is organized as follows. Section II explains Change to Win and its research on consumer issues and the wireless industry. Section III provides an overview of the necessity of wireless phones and why the Commission's slamming and cramming rules should apply to the wireless sector. Section IV discusses the Commission's current rules that regulate wireless phone billing and explains why they are inadequate to prevent cramming. Section V summarizes recent consent decrees between the Commission and the four largest wireless carriers about unauthorized charges for third party products and services and argues that the terms of those consent decrees should be expanded and codified in the Commission's proposed cramming rule. Section VI explains Change to Win's analysis of consumer complaint data received from the FTC, which found that the total volume of consumer complaints is growing and that cramming complaints represent a significant number of these complaints. Section VII summarizes consumer complaint narratives filed with the Maryland Attorney General's Office about the four wireless carriers, which show that customers who are the victims of unauthorized charges face difficulties receiving an adequate remedy from their carrier. Section VIII summarizes Change to Win's research into the sales practices of T-Mobile, the third largest wireless carrier, and why these practices may contribute to the high incidence of cramming. Section IX discusses the implications of Change to Win's research for the Commission's rulemaking on slamming and cramming.

II. Change to Win

Change to Win ("CtW") is a federation of labor unions that represent more than 5 million workers in the private and public sectors. CtW pursues initiatives to strengthen consumer protections and workers' rights as part of its goal to rebuild the American middle class. Since its creation in 2005, CtW has been a forceful advocate on a range of issues including shareholder rights, consumer issues, environmental regulations, and an array of workplace protections. Since 2015, CtW has researched consumer issues in the wireless industry and shared our findings with the Commission and other federal and state regulators.

III. The Necessity of Wireless Phones

One of the most significant changes in telecommunications in the past twenty years is the explosion in wireless phone ownership. Wireless phones have become a necessity to modern life in the United States. According to the National Center for Health Statistics, the second half of 2016 marked the first time that the majority of American households—51 percent—did not own a landline and were wireless-only for telephone service.[3]

Non-white and low-income households are disproportionately dependent on wireless phones for telephone service. Forty-seven percent of white adults lived in wireless-only households compared to 65 percent and 52 percent of Hispanic and Black adults, respectively.[4] Additionally 66 percent of adults living in poverty and 59 percent of adults living in near-poverty live in wireless-only households, compared to 49 percent of higher-income adults.[5]

Moreover, a growing share of Americans lack traditional broadband service and are using smartphones as their primary means of accessing the internet. This was the case with 12 percent of American adults in 2016, up from eight percent in 2013.[6] Non-white and low-income Americans are especially dependent on their smartphones for internet access. In 2016, 23 percent and 15 percent of Hispanic and Black Americans, respectively, were smartphone-dependent, up from 16 and 10 percent, respectively, in 2013. And, in 2016, 21 percent of Americans making under $30,000 were smartphone-dependent for internet access, up from 12 percent in 2013.

As the percentage of Americans dependent on wireless phones has grown so too has the number of retail outlets selling wireless phones. Currently almost 29,000 retail outlets offer

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[3] Stephen Blumberg & Julian Luke, *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July–December 2016,* NATIONAL CENTER FOR HEALTH STATISTICS, May 2017, at 1, *available at* https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201705.pdf.

[4] *Id.* at 6.

[5] *Id.*

[6] Pew Research Center, Mobile Fact Sheet (Jan. 12, 2017), *available at* http://www.pewinternet.org/fact-sheet/mobile/.

postpaid wireless services for the top four wireless carriers.[7] Wireless phone carriers "continue to dominate retail sales channels, accounting for over half of smartphone sales.[8]

Given the increasing necessity of wireless phones and the dominant market share of wireless carriers, the Commission's slamming and cramming rules should apply to wireless carriers, including all sales through their call centers and retail outlets.

IV. FCC's Current Regulation of Cramming

The FCC's truth-in-billing rules require wireline and wireless providers to provide clear descriptions of each service for which a customer is billed.[9] "The description [for each charge] must be sufficiently clear in presentation and specific enough in content so that customers can accurately assess that the services for which they are billed correspond to those that they have requested and received, and that the costs assessed for those services conform to their understanding of the price charged."[10] These rules are intended "to reduce slamming and other telecommunications fraud by setting standards for bills for telecommunications service."[11]

Consumer research, however, suggests that these rules are not adequate to protect consumers from unauthorized charges. A 2014 survey of smartphone owners who received calls on their wireless phone from scammers or otherwise suspicious or unknown numbers found that over half—54 percent—never or rarely checked their wireless phone bills.[12] This means that unauthorized charges—especially for relatively small amounts—will frequently go undetected.

Moreover, all four major wireless carriers provide financial incentives for customers to enroll in automatic debit programs,[13] which increase the likelihood that customers will not routinely check their bills. According to a study by a Duke economist, utility customers who opt into automatic bill payment programs end up paying more money on their bills than those who

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7 This number represents the sum of the 19,823 carrier-branded stores, including both corporate stores and authorized retailers, and an estimated 8,970 big-box retailer locations.

8 Michael R. Levin, *Mobile Carrier Stores Still Carry Retail*, HUFFINGTON POST, Apr. 1, 2015, *available at* http://www.huffingtonpost.com/michael-r-levin/mobile-carrier-stores-sti_b_6984934.html.

9 47 CFR § 64.2401.

10 *Id.* § 64.2401(b).

11 *Id.* § 64.2400(a).

12 Zach Epstein, *Phone Scams Cost Americans $8.6 Billion Last Year –How To Protect Yourself*, BCR, Aug. 27, 2014, a*vailable at* http://bgr.com/2014/08/27/phone-scams-how-to-block/.

13 *See* AT&T website, https://www.att.com/plans/unlimited-data-plans.html (advertising several plans with a "$5 autopay & paperless bill discount") (last visited Sept. 12, 2017); Sprint website, https://www.sprint.com/landings/autopay/index.html?ECID=vanity:autopay ("Save $5 per month per line on select plans when you sign up for AutoPay") (last visited Sept. 12, 2017); T-Mobile website, https://support.t-mobile.com/docs/DOC-1073 ("Depending on your plan, you can receive a monthly bill credit for each line on your account (up to a maximum of eight lines on a T-Mobile ONE Taxes Included plan) when AutoPay is active.") (last visited Sept. 12, 2017); T-Mobile website, http://www.verizon.com/about/accessibility/unlimited-plans, ("With Auto Pay and paper-free billing, you'll save an additional $5 off the monthly account access fee for a single-line plan, and an additional $10 off for a multi-line plan.") (last visited Sept. 12, 2017).

make manual payments.[14] Because these automatic debit programs "free customers from having to regularly review their bills in order to transmit timely payments," he concludes that these programs cause rational customers to stop reviewing their bills and thereby cease taking steps to lower high bills.[15] These automatic debit programs increase the likelihood that customers never uncover unauthorized or otherwise questionable charges.

V. Wireless Carrier Consent Decrees for Third-Party Billing

In 2014 and 2015, the Commission fined and entered into consent decrees with the four major wireless carriers—Verizon, AT&T, T-Mobile, and Sprint—for billing customers for third party products and services they had not authorized. Pursuant to the consent decrees, all four carriers agreed to develop and implement a system to "obtain Express Informed Consent before a Consumer is billed for any Third-Party Charge" and to "retain sufficient information to allow such consent to be verified."[16]

As discussed in detail below, an industry-wide pattern of unauthorized enrollment in products and services—both those provided by the carriers themselves and those provided by third parties—continues. Because of the continuing prevalence of this problem, the requirements the carriers agreed to in their respective consent decrees—that a customer's express informed consent be obtained and verified for enrollment in third party charges—should be codified into the Commission's rules on cramming and be applied to all products and services, not just those provided by a third party. The Commission's cramming rules should require carriers to obtain customers' express informed consent before enrolling them in any additional services—whether provided by the carrier or a third party—and require carriers to provide verification of such consent in writing or by recording.

VI. Consumer Complaints Compiled by the FTC about the Four Largest Wireless Carriers

Pursuant to FOIA requests, CtW received over 50,000 consumer complaints filed with the FTC, or compiled by the FTC from other sources,[17] about T-Mobile, Verizon, AT&T and Sprint from January 2013 through December 2016. CtW analyzed the total number of complaints

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[14] *See* Steve Sexton, *Automatic Bill Payment and Salience Effects: Evidence From Electricity Consumption*, THE REVIEW OF ECONOMICS AND STATISTICS*,* May 2015.

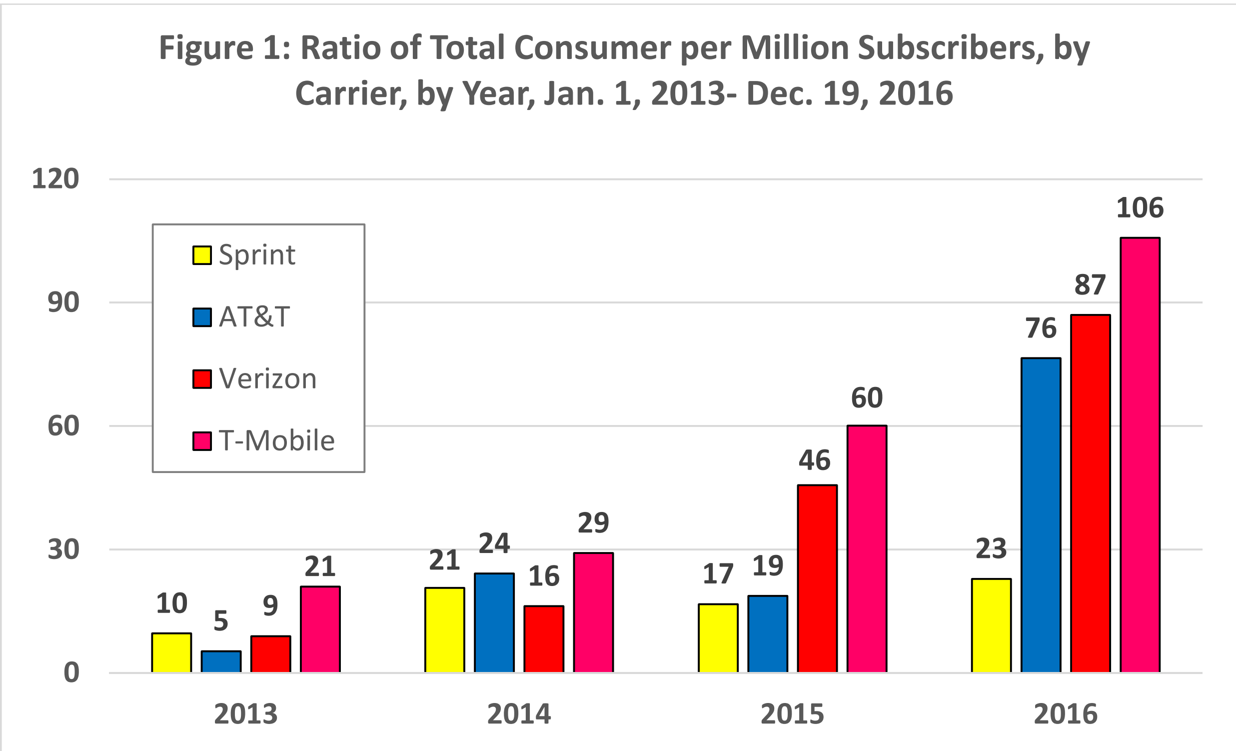
[15] Chris Mooney, *Automatic Bill Payment May Be Driving Up Your Energy Use—And Your Bills*, WASH. POST, Apr. 29, 2015.

[16] *Sprint Corp., Unauthorized Third-Party Billing Charges,* Consent Decree, 30 FCC Rcd 4575, 4582-83 (2015); *Cellco Partnership D/B/A Verizon Wireless Unauthorized Third-Party Billing Charges,* Consent Decree, 30 FCC Rcd 4590, 4596-97 (2015); *T-Mobile USA, Inc. Unauthorized Third-Party Billing Charges*, Consent Decree, 29 FCC Rcd 15111, 15119 (2014); *AT&T Mobility LLC Unauthorized Third-Party Billing Charges*, Consent Decree, 29 FCC Rcd 11803, 11810 (2014).

[17] In addition to complaints submitted directly to the FTC, the FTC aggregates consumer complaints from various sources, including the Consumer Financial Protection Bureau, the California Attorney General, the Washington State Attorney General, the Massachusetts Attorney General and the Better Business Bureau offices in Saint Louis, MO and DuPont, WA.

about each of the four wireless carriers. To allow for comparison of complaints across carriers, CtW created a complaint ratio, defined as the ratio of the number of complaints per million subscribers.[18]

As Figure 1 below demonstrates, industry-wide complaints rose dramatically from 2013 to 2016. During the four years analyzed, the number of complaints about Sprint more than doubled, the number of complaints about T-Mobile quintupled, the number of complaints about Verizon increased nine fold, and the number of complaints about AT&T increased fifteen fold. Moreover, during the last two years analyzed, 2015 to 2016, the total number of complaints per million subscribers about the four wireless carriers more than doubled.[19]



Source: CtW analysis of complaints compiled by the FTC

CtW also analyzed the FTC consumer complaints by subject matter category.[20] We identified all complaints containing the parent code or subcategory "unauthorized charges or

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[18] Change to Win averaged quarterly data on subscribers to estimate an annual average number of subscribers. The first two quarters of 2016 were used to estimate 2016 numbers. To create the complaint ratio for all of the consumer complaints, the number of consumer complaints by carrier in each year was divided by the number of subscribers by carrier and multiplied by one million.

[19] We requested, but have not yet received, the FTC's complaint data for the rest of 2016.

[20] Because the complaints aggregated by the FTC from other sources contained different coding and categorizing methods than the complaints submitted directly to the FTC, we limited our analysis by subject matter category to complaints submitted directly to the FTC. Our methodology is as follows: We divided the number of complaints

debits" as pertaining to cramming.[21] CtW's analysis shows that, from 2013 to 2016, more than 20 percent of mobile phone consumer complaints submitted to the FTC about the four major wireless carriers involved unauthorized charges on consumers' bills. And this coding does not capture the universe of cramming complaints. From 2013 to 2016, the FTC received 7,136 additional complaints coded as "Mobile: Carrier Rates\Plans," its single most frequently used code; based on CtW's manual review of a subset of these complaints, many involved claims of billing problems, including cramming.

In sum, the FTC consumer complaint data indicate that all four wireless carriers have experienced a sharp increase in consumer complaints from 2013 to 2016 and that the increase in consumer complaints includes a substantial number of complaints about cramming**.**

VII. Consumer Complaints filed with the Maryland Attorney General's Office about the Four Largest Wireless Carriers

Change to Win supplemented the FTC consumer complaint data with a review of consumer complaints submitted to the Maryland Attorney General's Office about the four largest wireless carriers, which we received pursuant to a Maryland Public Information Act request filed in 2016.[22] The Maryland Attorney General's Office provided us with hard copies of the complaints, which we manually reviewed. We found examples of cramming complaints against all four wireless carriers, including the following:[23]

A. AT&T Complaints

- A consumer reported that, on December 23, 2015, he purchased a new phone on a two-year contract from AT&T. Three salesmen told him that he could get a second phone for free if he agreed to a $25 per month charge for the additional line. A couple of days later, he received a text message indicating that he had been enrolled in a phone insurance plan for $11 per month, and he called customer service to cancel the unauthorized charge. During the conversation, he learned that he was also being charged $25 per month for the phone that he had been told was free (in addition to the $25 charge for the line). He received inconsistent statements from customer service personnel about the overcharges and has been unable to get reimbursement for the unauthorized phone charges.

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coded with "unauthorized charges or debits" that were submitted directly to the FTC (3,004) by the total number of mobile phone consumer complaints submitted directly to the FTC in that period (14,476) to get 20.75%. The FTC sources listed in the data received via FOIA were the FTC Inspector General, FTC Call Center, FTC Mobile Complaint Assistant, and FTC Online Complaint Assistant (CIS).

[21] The FTC categorizes complaint data with a code indicating the topic of the complaint; some of these codes have a 'parent code' followed by subcategories. We identified 65 unique codes use by the FTC in the years analyzed.

[22] We requested this information as part of an investigation into wireless industry practices in particular regions, including Maryland.

[23] Copies of the complaints summarized in this section are on file with Change to Win.

- On February 16, 2015, a consumer complained that AT&T had charged him $11.51 per month for an insurance plan he had not authorized. He disputed the charge with AT&T for several months and finally cancelled his service.

B. Sprint Complaints

- A consumer who entered into a two-year contract with Sprint on January 14, 2014, after comparing prices with other carriers, was charged a fee on a first bill entitled "Sprint Surcharges" that was never disclosed at the point of sale.
- On January 11, 2014, a consumer signed up for Sprint's family plan. He was told that each line on the plan would receive a $5 discount, bringing the monthly charge per line for three lines to $45. Soon after, however, he received a letter from Sprint stating that an additional $15 fee per month would be charged for each line on the family plan. He states: "This was never disclosed to us when we signed up in January and we even questioned if any additional fees would apply [and] were told no." He disputed the charge with Sprint to no avail.

C. T-Mobile Complaint

- A consumer stated in an undated complaint: "T-Mobile has charged me $10.00/month since August 2013 for insurance that I did not subscribe to receive. When I contacted them today I was told that they would only refund 60 days of the overcharge as it was my responsibility to have noticed the error sooner. I am owed a total of $60.00, not the $20.00 they are offering to pay for stealing my money."

D. Verizon Complaints

- On February 1, 2013, a consumer purchased two cell phones from a Verizon store and was never told about certain service charges. He states: "After multiple calls to Verizon customer service[,] I had these charges taken off my bill. However, they strangely appeared back on my bill."
- On May 5, 2014, a consumer called Verizon intending to cancel service and enroll in a cheaper plan with AT&T. The Verizon call center representative told him that he could receive 6GB of data at the cost of 2GB if he kept his service with Verizon. The consumer agreed but, soon thereafter, he received notification that he had gone over his data limit and realized he never received the additional 4GB of data.

These consumer narratives show that customers who are the victims of unauthorized services and other charges have difficulty getting adequate recourse through their wireless carriers.

VIII. Research into T-Mobile Sales Practices

In addition to the analysis of FTC and Maryland Attorney General's Office consumer complaints, Change to Win conducted research into the sales practices of T-Mobile, the third largest wireless carrier, which formed the basis for a June 1, 2017 complaint to the Commission about cramming at that company. Change to Win interviewed and polled T-Mobile sales and call center workers in order to gain insight into the company's sales metrics and their effect on workers' sales practices and customers' experiences. The research indicates that T-Mobile's corporate policies put unreasonable pressure on salespeople to enroll customers in ancillary services and thereby create a risk of cramming.

A. Online Poll of T-Mobile Salespeople

Through Facebook advertisements that targeted current and former T-Mobile employees, CtW polled almost 500 current or recently separated T-Mobile salespeople in October and November 2016. The poll's questions focused on T-Mobile's retail sales goals, changes in these metrics over time, and the kinds of practices required to meet these goals. A startling 83 percent said that management pressured them to add products and services that customers did not explicitly request.[24] And more than half of the respondents said that it has become more difficult to reach their sales goals since they started working at T-Mobile.[25] One polled worker left the following comment at the end of the survey: "Our goals and quotas are so unrealistic and we [are] under so much stress that [it] can cause a mental breakdown. . . . Employees often feel threatened [that they will] lose their jobs if goals are not met."[26] Another employee commented that "[g]oals have become harder to reach" and that "it opens up alot (sic) of room for fraud."[27]

B. Interviews of T-Mobile Sales and Call Center Workers

Change to Win conducted in-depth interviews with 17 T-Mobile call center and retail workers in seven states from June through October 2016 to gain insight into T-Mobile's sales protocols and metrics and how they affect sales practices.

Nearly all of the interviewed retail workers described unrelenting sales pressures stemming from sales metrics and commission structures that are difficult to meet. One salesperson said that "there is such extraordinary pressure [that] it makes it so you can't do what's ethically required" and that there is "so much stress and internalized anguish because we can't meet goals."[28] Another said that workers are not incentivized to do the right thing for customers and that the company "always wants more" and "pushes us right up to the line . . . We're always selling in the gray area."[29]

Salespeople report that they are pressured to enroll new customers in ancillary services, most commonly phone insurance. T-Mobile's phone insurance is provided by third party

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[24] Respondents were asked: "Does management pressure sales staff to add products/services (insurance, accessories, additional lines, etc.) that customers do not explicitly ask for?" 310 respondents answered the question; 46 percent said "Almost always", 22 percent said "Often", and 16 percent said "Occasionally".
[25] Respondents were asked: "Since you started working for the cellular company, is it getting easier or more difficult to meet your sales goals?" 346 respondents answered the question, and 183 (53 percent) answered "More difficult."
[26] Individual survey result from September 12, 2016.
[27] Individual survey result from September 17, 2016.
[28] Interview on October 21, 2016.
[29] Interview on October 17, 2016.

insurance company Assurant, which offers T-Mobile customers different plans that cost between $7 and $15 per month per device.[30] One of Assurant's insurance plans— JUMP! with Premium Device Protection—allows consumers to upgrade to a new phone once 50 percent of the current phone has been paid off. One salesperson said that his store's sales goals include signing up 80 percent of new accounts with the JUMP insurance plan and reaching $4,000 in accessory sales per month.[31] Another sales employee, who is a store manager, said that 95 percent of new accounts were expected to have JUMP insurance, and that sales targets for his store were "crazy."[32] Yet another said that it is standard practice to add JUMP insurance to new lines without asking the customer first, and then remove it three days later to boost sales numbers and ensure that the "boss will be happy."[33]

Several salespeople reported that management constantly pressures them to upsell and often encourages them explicitly and implicitly to commit fraud to boost their sales figures. One worker described having hourly conversations with her manager about hitting her sales goals and, when running customers' credit checks, being peppered with questions from her manager about whether the customers need additional lines or services.[34] Another salesperson said that managers pressure workers to sneak accessories on to customers' bill by inflating the price of the phone or adding the accessories to customers' equipment installment plan (a two-year loan for phones) and telling customers that they will pay nothing for the accessories.[35] Yet another said that her manager encouraged her to meet her sales goals by saying: "Don't think about your customers, think about your money in your pocket."[36]

Change to Win also interviewed T-Mobile call center workers, who field hundreds of calls per week from aggrieved customers. One call center worker estimated that she receives more than 100 calls per month about fraudulent lines and JUMP insurance add-ons. She mused that "the CEO talks about the company's growth [but], from my point of view, I wonder how many of those lines added are real."[37] Another call center worker said that billing problems are common, in particular "adding lines customers don't need or telling customers they're going to get something for free but adding [it] to their bill."[38]

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[30] Assurant and T-Mobile, Program Info, *available at*: https://mytmoclaim.com/terms.aspx?lang=en (last viewed May 24, 2017). The basic plan—called Device Protection—covers a device for hardware malfunction, accidental damage, theft and loss, whereas a more comprehensive plan—JUMP! Plus with Premium Device Protection Plus—provides additional features, including identity and privacy protection and the ability to upgrade to a new phone once 50 percent of the current phone has been paid off.

[31] Interview on October 17, 2016.

[32] Interview on September 30, 2016.

[33] Interview on September 30, 2016.

[34] Interview on September 21, 2016

[35] Interview on July 2, 2016.

[36] Interview on October 17, 2016.

[37] Interview on October 21, 2016.

[38] Interview on July 25, 2016.

These interviews indicate that T-Mobile has created a high-pressure work environment with unrealistic sales goals coupled with explicit and implicit encouragement by managers to enroll customers in unauthorized services. Similar to the widespread fraudulent enrollment in accounts at Wells Fargo, the sales practices at T-Mobile suggest that the company sets unrealistic sales metrics and then profits from the unfair and deceptive tactics used by its sales representatives and store managers to meet those metrics. A Commission rule that requires wireless carriers to receive and document a customer's consent before enrollment in any services or products would likely curb these fraudulent sales practices.

IX. Implications for the Commission's Rulemaking on Slamming and Cramming

Over the past several years, there has been an explosion in wireless retail sales and the number of Americans who rely on wireless phones for voice services. Vulnerable populations, particularly low-income and non-white communities, are especially dependent on their wireless phones for both voice and internet service.

Yet regulatory oversight has not kept up with industry growth and sales practices. FTC consumer complaint data from 2013 to 2016 show a dramatic increase in the number of complaints against the four major wireless carriers, including one in five complaints that pertain to unauthorized charges. Consumer complaint narratives from the Maryland Attorney General's Office indicate that some customers who are victims of unauthorized charges face difficulties receiving an adequate remedy from their carriers. And these consumer complaints to regulators likely represent the tip of the iceberg; many customers do not routinely check their wireless bills so relatively small charges can go undetected for several months or years, if they are detected at all. Finally, our research on T-Mobile suggests that a high-pressure sales environment with unrealistic metrics for enrollment in ancillary services may contribute to a high incidence of cramming.

For these reasons, Change to Win respectfully requests the following:

(1) The Commission's slamming and cramming rules should apply to wireless carriers and, in particular, sales through their call centers and retail outlets.
(2) The rules should apply to instances where cramming is not accompanied by slamming, *i.e.*, where an authorized carrier crams unauthorized services or products onto its customers' accounts.
(3) The rules should require carriers to obtain a customer's express informed consent before adding any charges for products or services to a customer's account. This express informed consent should be documented in writing or by recording.

Respectfully submitted,

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